

(z) *Eligibility for services.* Serve Indian and Alaska Native students who are recognized by the Secretary of the Interior as eligible for Federal services, because of their status as Indians or Alaska Natives, whose Indian blood quantum is  $\frac{1}{4}$  degree or more. In the absence of other available facilities, children of non-Indian Bureau personnel or other non-eligibles may be served subject to the provisions of 25 U.S.C. 288 and 289.

(aa) *Appropriations.* Aggressively seek sufficient appropriations to carry out all policies herein established subject to the president's budget and the Department's budgetary process.

**§ 32.5 Evaluation of implementation of Pub. L. 95–561.**

The Director, Office Indian Education Programs will develop guidelines for evaluating all functional and programmatic responsibilities associated with title XI of the Education Amendments of 1978 (Pub. L. 95–561), and in the January 1, 1981 annual report, as provided in section 1136, of Pub. L. 95–561 include a statement of the specific program toward implementing these policies.

**PART 33—TRANSFER OF INDIAN EDUCATION FUNCTIONS**

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- 33.1 Definitions.
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AUTHORITY: Sec. 1126, Pub. L. 95–561, Education Amendments of 1978 (92 Stat. 2143, 2391; 25 U.S.C. 2006).

SOURCE: 44 FR 58103, Oct. 9, 1979, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

**§ 33.1 Definitions.**

(a) *Agency* means that organizational unit of the Bureau which provides direct services to the governing body or bodies and members of one or more specified Indian Tribes.

(b) *Early childhood* means education activities serving the 0 to 8 year old child, including pre-natal, child care, kindergarten, homebase, homebound, and special education programs.

(c) *Elementary and secondary education* means those programs serving the child from grade one through grade twelve.

(d) *Operating level* means the organizational level at which direct educational services are performed.

(e) *Personnel directly and substantially involved* means those persons who provide services which affect the operation of Indian education programs, including (but not limited to) school or institution custodial or maintenance personnel, and whose services for Indian education programs require the expenditure of at least 51 percent of the employee's working time.

(f) *Post-secondary* means education programs that are provided for persons past the age for compulsory education to include continuing education, higher education, undergraduate and graduate, career and adult education. As used in this Act, the term Post-Secondary shall include those Bureau of Indian Affairs programs operated at Southwestern Indian Polytechnic Institute, the Institute of American Indian Arts, and Haskell Indian Junior College, and those operated at Tribally controlled community colleges under Pub. L. 95–471.

**§ 33.2 Policy.**

It is the policy of the Department of the Interior that:

(a) Indian control of Indian affairs in all matters relating to education shall be facilitated.

(b) Authority to perform education functions shall be delegated directly from the Assistant Secretary-Indian Affairs to the Director, Office of Indian Education Programs.

(c) Administrative authority shall be compatible with program authorities; and, both shall be delegated to the operating level to assure efficient and effective delivery of education services to Indian children, youth, and adults.

(d) The Director, Office of Indian Education Programs shall supervise the operation of Indian education program personnel at the Area, Agency,

and the three Bureau of Indian Affairs post-secondary institutions.

(e) Indian Education program functions to be performed at the Area office level shall include those dealing with higher education, Johnson-O'Malley aid to non-Bureau schools, off-reservation boarding schools, those education program operations serving tribes from more than one Agency except those at the three post-secondary institutions, on-reservation education functions located at an Agency where no educational personnel are assigned, education contract operations, and adult education.

#### **§ 33.3 Delegation of authority.**

The administrative and programmatic authorities of the Assistant Secretary—Indian Affairs pertaining to Indian education functions shall not be delegated to other than the Director, Office of Indian Education Programs. The Assistant Secretary shall publish delegations of authorities to the Director in the Bureau of Indian Affairs Manual after the effective date of these regulations.

#### **§ 33.4 Redelegation of authority.**

The authorities of the Assistant Secretary—Indian Affairs as delegated to the Director, Office of Indian Education Programs may be redelegated by the Director to a Bureau of Indian Affairs Agency Superintendent for Education, to a Bureau Area Education Programs Director, or to a President of a Bureau of Indian Affairs post-secondary education institution.

#### **§ 33.5 Area education functions.**

A Bureau Area Education Programs Director shall perform those Bureau of Indian Affairs education functions related to Johnson-O'Malley aid to non-Bureau schools, higher education, Bureau peripheral dormitories, adult education, off-reservation residential schools, on-reservation functions located at an Agency where no education personnel are assigned, education contract operations, and those education program operations serving Tribes from more than one Agency, except those of the Bureau's post-secondary institutions.

#### **§ 33.6 Agency education functions.**

A Bureau Agency Superintendent for Education shall perform those education functions related to elementary and secondary education, early childhood education, peripheral dormitories which have been supervised prior to Pub. L. 95-561, and exceptional education programs as defined in 25 CFR part 32. This section shall not be construed to remove higher education, adult education and/or Johnson-O'Malley programs currently administered at the Agency level. Further, the Director under the authority of § 33.4 will periodically review Area programs such as higher education, adult education, and Johnson-O'Malley for consideration to assign to Agency level administration.

#### **§ 33.7 Implementing procedures.**

(a) The Assistant Secretary—Indian Affairs shall:

(1) Implement the transfer for Indian education functions from the jurisdiction of Agency Superintendents and Area Office Directors to the Director, Office of Indian Education Programs.

(2) Modify existing descriptions of positions for Area Office Directors, Agency Superintendents, and all other personnel directly and substantially involved with the provisions of education services by the Bureau of Indian Affairs.

(b) The Director, Office of Indian Education Programs shall:

(1) For Area, Agency, and Bureau of Indian Affairs postsecondary institutional personnel:

(i) Properly list the duties of each employee required to perform functions redelegated by the Director;

(ii) Define the responsibilities for monitoring and evaluating education programs; and

(iii) Exercise supervision of these employees.

(2) Define responsibilities for employees providing technical and coordinating assistance for support services

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to the Director, Office of Indian Education Programs and his/her subordinates, including procurement, contracting, personnel, and other administrative support areas.

[44 FR 58103, Oct. 9, 1979. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 49 FR 12702, Mar. 30, 1984]

## § 33.8 Realignment of area and agency offices.

The Assistant Secretary—Indian Affairs shall implement Bureau of Indian Affairs Area Office and Agency Office reorganizations required to structure these offices consistent with education program activities to be undertaken at those levels.

## § 33.9 Development of procedures.

The Director, Office of Indian Education Programs shall prepare and promulgate procedures to govern the provision of support services by the Bureau of Indian Affairs for the education function. These procedures shall be consistent with existing laws, regulations, Executive Orders, and Departmental policies governing administrative support services. These provisions shall be prepared in consultation with those personnel within the Bureau of Indian Affairs who are responsible to the Commissioner of Indian Affairs for providing support services.

## § 33.10 Issuance of procedures.

The Assistant Secretary—Indian Affairs, directly or through the Commissioner of Indian Affairs, shall issue procedures in the Bureau of Indian Affairs Manual governing the provision of support services to the Bureau's Education Office function.

# PART 36—MINIMUM ACADEMIC STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN AND NATIONAL CRITERIA FOR DORMITORY SITUATIONS

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- 36.77 Waivers and revisions.

AUTHORITY: Section 502, 25 U.S.C. 2001; section 5101, 25 U.S.C. 2001; Section 1101, 25 U.S.C. 2002; 5 U.S.C. 301; 25 U.S.C. 2 and 9; 25 U.S.C. 2901, Title I of P.L. 101–477.

SOURCE: 50 FR 36816, Sept. 9, 1985, unless otherwise noted.